



17 JAN 2007

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In re Application of	:	
MANTH et al.	:	
Application No.: 10/587,009	:	
PCT No.: PCT/EP2003/005390	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 22 January 2003	:	
Attorney Docket No.: MANTH ET AL-1-PCT	:	
For: WATER DESALINATION INSTALLATION	:	

This decision is in response to the petition under 37 CFR 1.497(d) filed 26 December 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 May 2003, applicants filed international application PCT/EP2003/005390 which designated the U.S. and claimed a priority date of 22 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 21 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

On 27 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b) and indicating that the application was being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).

On 25 October 2006, a supplemental decision was mailed because the 27 September 2006 decision overlooked the declaration of inventors filed 21 July 2006. The supplemental decision

indicated that the declaration of inventors was not in compliance with 37 CFR 1.497(a)-(b) because it identified an incorrect inventorship.

On 26 December 2006, applicants filed the instant petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2).

Item (3) has not been satisfied. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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